

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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SAMUEL B. TRICKEY, : **No. 16-CV-7789 (PAE)**
Plaintiff, : **ECF CASE**
v. :
EMIL J. BROLICK, JANET HILL, : **NOTICE OF MOTION TO DISMISS**
JOSEPH A. LEVATO, MICHELLE J. :
MATHEWS-SPRADLIN, PETER W. :
MAY, MATTHEW PELTZ, NELSON :
PELTZ, TODD A. PENEGOR, PETER H. :
ROTHSCHILD, and :
ARTHUR B. WINKLEBLACK, :
Individual Defendants, :
- and - :
THE WENDY'S COMPANY, :
Nominal Defendant. :
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PLEASE TAKE NOTICE, that upon the Memorandum of Law dated January 30, 2017 and the Declaration of Theodore M. Grossman dated January 30, 2017 with exhibit thereto, the individual defendants and nominal defendant The Wendy's Company, by and through their attorneys, move this Court, at the Thurgood Marshall United States Courthouse, Room 1305, 40 Foley Square, New York, NY 10007, before the Honorable Paul A. Engelmayer, for an order dismissing Plaintiff's Verified Amended Shareholder Derivative Complaint for failure to comply with the pleading requirements of Federal Rule of Civil Procedure 23.1.

Dated: January 30, 2017
New York, New York

Respectfully submitted,

/s/ Theodore M. Grossman

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/s/ Mark M. Elliott

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